

ADMINISTRATIVE PANEL DECISION

The Faucet Boyz LLC v. Mark Morgan, Alltransglobacourier /
Ndashi Desmond
Case No. D2024-3379

1. The Parties

The Complainant is The Faucet Boyz LLC, United States of America (the “United States”), represented by The Plus IP Firm, United States.

The Respondent is Mark Morgan, Alltransglobacourier, United States / Ndashi Desmond, Cameroon.

2. The Domain Names and Registrars

The disputed domain name <microbarcars.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “First Registrar”).

The disputed domain name <microbarofficial.com> is registered with Hello Internet Corp (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2024. On August 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names.

On August 19, 2024, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Ndashi Desmond) and contact information in the Complaint.

On August 20, 2024, the Second Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center sent an email communication to the Complainant on August 26, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity

and/or that all domain names are under common control. The Complainant filed an amended Complaint on August 30, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 26, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on October 7, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Request for Consolidation of Proceedings

As set out in section 4.11.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)):

"Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties."

Section 4.11.2 sets out a range of factors which panels have typically found to be help in in assessing whether or not relevant domain names or websites are in common control.

The Complainant submits that the two disputed domain names referred to in the Complaint should be found to be in common control. Its principal arguments in support of that submission, together with the Panel's findings, are set out below:

A. The websites to which the disputed domain names resolve offer identical products with a similar layout, design, and look-and-feel.

While both websites appear to offer either genuine or counterfeit versions of the Complainant's products, the appearance of the respective websites does not suggest to the Panel that they are in common control.

B. The disputed domain names infringe the Complainant's trademark and follow the same naming pattern, i.e., the Complainant's trademark MICRO BAR followed by non-distinctive wording.

While this may be correct, the Panel does not consider this to be a factor which is persuasive of common control.

C. The disputed domain names evidence a pattern of deception, whereby the contact details for the disputed domain names utilize generic and possibly false contact details, which do not correspond with the names of the primary contact person.

While these observations may be true in both cases, the Panel finds once again that these factors are not persuasive of common control.

D. The disputed domain names (which were registered in December 2023 and March 2024 respectively) are temporally proximate and suggestive of systematic infringement.

The Panel does not consider the registration dates, which are several months apart, to be indicative of common control in this case.

The Panel also notes additional factors which do not suggest common control of the disputed domain names, or that they form part of a pattern of abusive registrations. For example, the disputed domain names have no registration details (whether genuine or false) in common, and are registered with two different Registrars, located on different continents.

The Panel does not therefore find, on balance, that there are circumstances to suggest that the disputed domain names are in common control. The Complainant's request for consolidation of the proceedings is accordingly declined, and the Complaint will proceed solely in respect of the disputed domain name <microbarcarts.com>. In this regard, the Panel notes that such determination does not prevent the Complainant from submitting a new Complaint regarding the disputed domain name <microbarofficial.com>.

5. Factual Background

The Complainant is a limited liability company registered in the State of Washington, United States. It is a supplier of cannabis, cannabis extract, and vaping products under the brand name and trademark MICRO BAR.

The Complainant is the owner of State of Washington trademark registration number 1081932 for the word mark MICRO BAR, registered on November 16, 2022 for "smoker's articles" in United States national class 34.

The Complainant is also the owner of United States trademark registration number 7443773 for the word mark MICRO BAR, filed on December 13, 2023 and registered on July 9, 2024 in International Class 41, and specifying a date of first use of November 1, 2022.

The Complainant operates a website at "www.microbar.com". Its branding as displayed on that website includes what it refers to as a design mark (the "Design Mark"), although it provides no evidence of the registration of that mark or the date of its first use. The design mark is stated to have the appearance of "light, graphical spay" and is reproduced below:



The disputed domain name was registered on May 28, 2024.

The disputed domain name has resolved to a website headed "Micro Bar Disposable Vape – Buy Micro Bars Online – Micro Bar Carts" and featuring the Design Mark. The website appears to offer the Complainant's products for sale online and includes numerous product images bearing the Design Mark and describes them as MICRO BAR vapes.

6. Parties' Contentions

A. Complainant

In addition to its registered trademark rights, the Complainant asserts common law rights in the mark MICRO BAR based on its business activities since November 2022. It claims a business presence in the States of California, Arizona, and Massachusetts, in addition to Washington, and states that it has established a "strategic operational footprint" in those regions as a result of the diligent promotion and utilization of its trademark and the Design Mark. The Complainant also states that it has over 11,000 followers on Instagram.

The Complainant submits that the disputed domain name is confusingly similar to its MICRO BAR trademark. It states that the disputed domain name incorporates that trademark in full, and that the addition of the additional term "carts", which is merely descriptive, does not detract from the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it used the mark MICRO BAR long before the Respondent registered the disputed domain name and has never permitted the Respondent to use that trademark. The Complainant submits that the Respondent uses the disputed domain name solely for the purpose of misleading customers and diverting them to its own website, where it not only competes with the Complainant, but offers "fraudulent sales without a bona fide offering or intent to deliver the goods to customers" (although the Complainant offers no evidence in support of this latter assertion).

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It states that, given the use of the disputed domain name to offer goods that are "identical to or imitations of" the Complainant's products, it is obvious that the Respondent had the Complainant's MICRO BAR trademark in mind when it registered the disputed domain name. The Complainant asserts that Internet users will mistakenly believe that the goods or services offered on the Respondent's website are offered or authorized by the Complainant, and that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the mark MICRO BAR. The disputed domain name incorporates that trademark in full, together with the dictionary term “carts”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions referred to above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

In certain limited circumstances, a reseller of trademarked goods or services may legitimately incorporate that trademark into a domain name used for the resale of the goods or services in question (see, e.g., section 2.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). However, the Panel does not find those circumstances to be applicable in this case.

First, the Panel finds there to be nothing included on the Respondent’s website to indicate that that website is not owned, operated, or authorized by, or otherwise legitimately affiliated with, the Complainant. The Respondent’s website does not, therefore, accurately and prominently disclose the Respondent’s relationship (or lack thereof) with the Complainant.

Secondly, the website in question must actually be offering the Complainant’s goods and must not be offering any competing goods. The Complainant has asserted both that the goods on offer on the Respondent’s website may not be genuine, and also that the Respondent does not actually deliver the goods in question. While the Complainant provides no evidence in support of these assertions, neither has the Respondent chosen to deny them, or indeed to make any positive case in this regard.

The Panel concludes in the circumstances that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Respondent has used the disputed domain name for the purpose of a website which offers what appear to be the Complainant’s goods, making prominent use of the Complainant’s MICRO BAR trademark and the Design Mark. It is to be inferred from such use that the Respondent registered the disputed domain name with the Complainant’s trademark in mind. In this regard, the Panel notes that the disputed domain name was registered approximately one month before the Complainant’s federal trademark was registered (but over five months after such trademark was filed). The Complainant has also provided some limited evidence of common law rights in the trademark – as well as a state trademark registration in Washington, registered prior to the disputed domain name. In these circumstances, and also noting the use of the disputed domain name, it is clear that the Respondent’s intent in registering the disputed domain name was to unfairly capitalize on the Complainant’s nascent trademark rights in bad faith. See section 3.8.2 of the [WIPO Overview 3.0](#). The Panel finds that both the disputed domain name and the content of the Respondent’s website are liable to confuse Internet users into believing that website must be owned or operated by, or otherwise commercially affiliated with, the Complainant, and that the criteria for legitimate reference to the Complainant’s trademark have not been met in this case. The Panel therefore finds that by

using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names <microbarcarts.com> be transferred to the Complainant.

For the foregoing reasons, the Complaint is denied without prejudice for the disputed domain name <microbarofficial.com>.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: October 21, 2024